

DETAILED ACTION

1. This Office Action is a Final Rejection in response to the remarks and arguments filed on November 7, 2007 and April 12, 2007 for the original application titled: "Biometric Financial Transaction System and Method". Statements and Affidavits submitted by the Applicant on November 7, 2007 regarding the changes in assignment and ownership have been reviewed and entered.

This is a reissue of the previous Final Rejection mailed out on January 16, 2008 due to errors in the middle pages of that Office Action.

Claims Status

2. Based on the Applicant's response dated November 7th, 2007 and April 12th, 2007, the Examiner has determined the following to be the latest status of the Applicants claims:

Claims 1-29 were previously submitted for examination.

Claims 1, 9-10 and 20 are 'currently amended'.

Claims 30-31 have now been submitted as 'new claims' for prosecution.

As explained below in this Office Action, the 'new' Claims 30-31 have been withdrawn due to original presentation.

Therefore, Claims 1-29 are currently pending for examination.

Election/Restriction

3. Newly submitted Claims 30 and 31 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The original independent Claims 1 and 20, and their dependent claims 2-19 and 21-29, respectively, are directed to “a method (claim 1) and system (claim 20)”; while the ‘new’ independent Claim 30, and its dependent claim 31, are directed to “a method”. Since the applicant has already received an action on the merits for the originally presented invention (claims 1-29), this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, ‘new’ Claims 30-31 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Abstract Objections

4. The Abstract objections are withdrawn and the Revised Abstract submitted by the Applicant on April 12, 2007 is hereby accepted as having 147 words per count done by the WORD software.

Oath/Declaration

5. The Oath/ Declaration objections are withdrawn and the Substitute Oath/ Declaration submitted by the Applicant on April 12, 2007 is hereby accepted.

Drawing Objections

6. The Drawings objections are withdrawn and the Replacement Drawings submitted by the Applicant on April 12, 2007 are hereby accepted.

Specification Objections

7. Based on the Applicant's amendments to the Specification, the previous objections noted in the Office Action of March 22, 2007 are hereby withdrawn and the amendments to the Specification are hereby accepted.

Claim Objections

8. The objections to Claims 1-29 in the previous Office Action for the Non-Final Rejection are hereby withdrawn based on amendments and remarks submitted by the Applicant on April 12, 2007 and November 7, 2007.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,943,423 issued on August 24, 1999 to Saed Muftic and titled: "Smart Token System for Secure Electronic Transaction and Identification" (hereinafter "Muftic") in view of US Patent No. 5,876,926 issued on March 2, 1999 to James E. Beecham and titled: "Method, Apparatus and System for Verification of Human Medical Data" (hereinafter "Beecham").

With respect to Claim 1, Muftic teaches "A method for tokenless biometric authorization of an electronic transaction between a consumer and a merchant using an electronic identifier and an access device wherein the access device is not required to contain in memory any data that is personalized to the consumer, the electronic identifier comprising at least one computer further comprising at least one database wherein the consumer registers at least one registration biometric sample taken directly from the consumer's person, the method comprising:" (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21)

Muftic teaches as disclosed above a system for secure electronic transactions and identification to include contactless communication, but it does not teach about 'tokenless biometric authorization'. However, Beecham teaches 'tokenless biometric authorization' as 'anonymously providing human health and/or medical data in a secure and tamper-free fashion' and as positively correlating a biometric reading with the medical data stored in a database. (see at least Beecham Abstract, Field and Summary, and C 6, ~L 1-67; C 8, ~L 54-63; C 24, ~L 7-31)

It would have been obvious to an ordinary person of skill in the art at the time invention was made to modify the teachings of Muftic with Beecham's teachings about positively correlating a biometric reading with the medical data stored in a database. The motivation to combine these two references would be to provide a more effective and enhanced security system and method for processing electronic transactions for merchants and consumers, and, thus, increase the efficiency of such electronic transactions for consumers and merchants.

Muftic teaches as disclosed above a system for secure electronic transactions and identification to include contactless communication, but it does not teach about 'registration (of) biometric sample taken directly from the consumer's person'. However Beecham teaches it. (see at least Beecham Abstract, Field and Summary, and C 6, ~L 1-67; C 8, ~L 54-63; C 24, ~L 7-31)

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“a consumer registration step, wherein a consumer registers with the electronic identifier at least one registration biometric sample taken directly from the consumer's person;” (see at least Beecham Abstract, Field and Summary, and C 6, ~L 1-67; C 8, ~L 54-63; C 24, ~L 7-31)

It would have been obvious to an ordinary person of skill in the art at the time invention was made to modify the teachings of Muftic with Beecham's teachings about positively correlating a biometric reading with the medical data stored in a database. The motivation to combine these two references would be to provide a more effective and enhanced security system and method for processing electronic transactions for merchants and consumers, and, thus, increase the efficiency of such electronic transactions for consumers and merchants.

Muftic teaches the following steps of a commercial/business electronic transaction: (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 5, ~L 23-54)

“a first communications establishment step, wherein the consumer and merchant establish communications with each other via an access device capable of biometric input;”

“a proposal step, wherein a commercial transaction is proposed between the merchant and the consumer via the access device;”

“a first access device identification step, wherein the access device communicates to the merchant an identification code associated with the access device;”

“a second communications establishment step, wherein after the consumer and merchant have agreed on the proposed commercial transaction, the consumer and the electronic identifier use the access device to establish communications with each other;”

“a second access device identification step, wherein the access device communicates to the electronic identifier the identification code associated with the access device;”

Muftic teaches as disclosed above a system for secure electronic transactions and identification to include contactless communication, but it does not teach about comparison of ‘biometric sample taken directly from the consumer's person’. However Beecham teaches it. (see at least Beecham Abstract, Field and Summary, and C 6, ~L 1-67; C 8, ~L 54-63; C 24, ~L 7-31)

“a consumer identification step, wherein the electronic identifier compares a bid biometric sample taken directly from the consumer's person and communicated from the access device with at least one previously registered biometric sample to produce a

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successful or failed identification of the consumer;”

“an information forwarding step, wherein, upon successful identification of the consumer, the electronic identifier electronically forwards information regarding the consumer to the merchant;”

“wherein, upon successful identification of the consumer, a biometrically authorized electronic financial transaction is conducted without the consumer being required to present any personalized man-made memory tokens.”

It would have been obvious to an ordinary person of skill in the art at the time invention was made to modify the teachings of Muftic with Beecham’s teachings about positively correlating a biometric reading with the medical data stored in a database. The motivation to combine these two references would be to provide a more effective and enhanced security system and method for processing electronic transactions for merchants and consumers, and, thus, increase the efficiency of such electronic transactions for consumers and merchants.

With respect to Claim 2, Muftic teaches “the electronic identifier performs an electronic financial transaction authorization, further comprising the steps of:” (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49)

“a transaction forwarding step, wherein the merchant forwards information regarding the commercial transaction to the electronic identifier;”

“an identification code forwarding step, wherein the merchant communicates to the electronic identifier the identification code associated with the access device that was previously communicated to the merchant;”

“an association step, wherein the identification code associated with the access device is used to associate the biometric identification accomplished in the consumer identification step with the information regarding the commercial transaction;”

“a financial transaction authorization step, wherein the electronic identifier executes a financial transaction on behalf of the merchant.”

Muftic teaches as disclosed above a system for secure electronic transactions and identification to include contactless communication, but it does not teach, as in third step above, about identification of ‘biometric sample taken directly from the consumer’s person’. However Beecham teaches it. (see at least Beecham Abstract, Field and Summary, and C 6, ~L 1-67; C 8, ~L 54-63; C 24, ~L 7-31)

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It would have been obvious to an ordinary person of skill in the art at the time invention was made to modify the teachings of Muftic with Beecham's teachings about positively correlating a biometric reading with the medical data stored in a database. The motivation to combine these two references would be to provide a more effective and enhanced security system and method for processing electronic transactions for merchants and consumers, and, thus, increase the efficiency of such electronic transactions for consumers and merchants.

With respect to Claim 3, Muftic teaches "the merchant performs an electronic financial transaction authorization, further comprising the steps of:" (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49)

"an identification code forwarding step, wherein the electronic identifier forwards to the merchant the identification code associated with the access device that was previously communicated to the electronic identifier;" (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49)

"an association step, wherein the identification codes associated with the access device are used to associate the information regarding the consumer with the commercial transaction;" (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49)

"a financial transaction authorization step, wherein the merchant executes a financial transaction." (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49)

With respect to Claim 4, Muftic teaches "the information regarding the consumer that is electronically forwarded to the merchant comprises at least one previously registered financial account identifier belonging to the consumer." (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18)

With respect to Claim 5, Muftic teaches "the financial account identifier is selected from the set comprising: a credit card number, a debit card number, a bank account number." (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18)

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With respect to Claim 6, Muftic teaches “the information regarding the consumer that is electronically forwarded to the merchant is selected from the set comprising: the consumer's age, the consumer's name, the consumer's address.” (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18)

With respect to Claim 7, Muftic teaches “the information regarding the consumer that is electronically forwarded to the merchant indicates the success or failure of the financial transaction authorization step.” (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18)

With respect to Claim 8, Muftic teaches “the access device is selected from the set comprising: a wireline telephone, a wireless telephone, a two-way pager, a personal digital assistant, a personal computer.” (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18)

With respect to Claim 9, Muftic teaches “the identification code associated with the access device is selected from the set comprising: a telephone number, an electronic serial number (ESN), a hardware identification code, an encryption of a challenge message with the access device's private key.” (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18; and sections titled ‘Symmetric Cryptographic Functions’ and Asymmetric Crypto Functions’; and FIGs. 18/20/22)

With respect to Claim 10, Muftic teaches “the communication of the identification code associated with the access device is accomplished via caller identification (ID).” (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18; and two files described as PIN file 415 and user file 420)

With respect to Claim 11, Muftic teaches “the first communications establishment step comprises a telephone call.” (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18)

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With respect to Claim 12, Muftic teaches “the second communications establishment comprises a telephone call.” (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18)

With respect to Claim 13, Muftic teaches “the second communications establishment comprises three way calling.” (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18)

With respect to Claim 14, Muftic teaches “the second communications establishment comprises packet switching.” (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18)

With respect to Claim 15, Muftic teaches “the second communications establishment comprises induced three-way calling.” (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18)

With respect to Claim 16, Muftic teaches “the transaction forwarding step uses a communication method selected from the set comprising: a dedicated communication line, a dial-up communication line, packet switching.” (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18)

With respect to Claim 17, Muftic teaches “the consumer registration step further comprises the consumer registering at least one financial account identifier with the electronic identifier.” (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18)

With respect to Claim 18, Muftic teaches “the biometric used is selected from the set comprising: a finger image, a facial image, a retinal image, an iris image, a voiceprint.” (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18)

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With respect to Claim 19, Muftic teaches “agreement on the proposed commercial transaction is accomplished by a method selected from the set comprising: oral agreement, written agreement, use of touch-tones, use of a mouse to click an “accept” icon, use of a stylus to tap an “accept” icon.” (see at least Muftic Abstract and Disclosure in C 2 to C 6; and C 12, ~L 57-64; C 17, ~L 8-19; C 19, ~L 4-21; C 4, ~L 17-38; C 6, ~L 32-49; C 13, ~L 8 to C 15, ~L 18)

With respect to Claims 20-29, the exemplary analysis used for the rejection of method Claims 1-19 is being used to reject the method Claims 20-29 also, as the limitations are same or very similar in the two sets of claims.

Response to Arguments

10. Applicant's REMARKS and Arguments dated April 12th, 2007 and November 7th, 2007 with respect to Claims 1-29 have been carefully considered, but are now moot in view of the new ground(s) of rejection under 35 USC 103(a).

Examiner acknowledges the Affidavits filed by the Applicant and withdraws the previous rejection under 35 USC 102 due to common assignment for the prior art references of Pare and Hoffman cited in there. Further, the Applicants are informed that the references cited in the rejection of claims must be read in entirety as other passages and drawings may also apply.

Additionally, Examiner notes that the Applicant's amendments necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Conclusion

11. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is:

- “Biometric Watermarks”, US Patent No. 6,208,746 issued to Clyde Musgrave on March 27, 2001.
- “Biometric Authentication System”, US Patent No. 6,219,439 issued to Paul M. Burger on April 17, 2001.
- “System and Method of Assessing the Quality of an Identification Transaction using an Identification Quality Score”, US Patent No. 6,070,141 issued to Houvener et al. on May 30, 2000.

- “Digital Imaging System for Evidentiary Use”, US Pub. No. 2001/ 0033661 by Prokoski, Francine J. published on October 25, 2001.
- “Visit Verification”, US Patent No. 6,154,727 issued to Karp et al. on November 28, 2000.
- “Smart Card Device with Pager and Visual Image Display”, US Patent No. 5,770,849 B1 issued to Novis et al. on June 23, 1998.
- “Method and Apparatus for Calibration Over Time of Histological and Physiological Biometric Markers for Authentication”, US Patent No. 7,133,792 issued to Murakami et al. on November 7, 2006.
- “Biometric, Personal Authentication System”, US Patent No. 5,719,950 issued to Osten et al. on February 17, 1998.
- “Process for Encrypting a Fingerprint onto an I.D. Card”, US Patent No. 5,598,474 issued to Neldon P. Johnson on January 28, 1997.
- “Secure Credit/Debit Card Authorization”, US Patent No. 5,485,510 issued to Raymond O. Colbert on January 16, 1996.
- “Remote Image Capture with Centralized Processing and Storage”, US Patent No. 5,910,988 issued to Ballard, Claudio R. on June 8, 1999.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanjeev Malhotra whose telephone number is 571-272-7292. The examiner can normally be reached on Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

14. Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, these are minimum citations and other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially

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teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

SM

04 June, 2008

/James P Trammell/

Supervisory Patent Examiner, Art Unit 3694